UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/618,956
Filing Date: July 19, 2000
Appellant(s): TU ET AL.

Brian I. Marcus (Reg. No. 34,511)
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/7/08 appealing from the Office action

mailed 4/20/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,757,712					BASTIAN					6-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

   The specification shall contain a written description of the invention, and of the manner and process of
   making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the
   art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
   set forth the best mode contemplated by the inventor of carrying out his invention.

2.   Claims 1 – 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to

comply with the enablement requirement. The claim(s) contains subject matter which

was not described in the specification in such a way as to enable one skilled in the art to

which it pertains, or with which it is most nearly connected, to make and/or use the

invention.

Independent claim 1 teaches "remote devices (that) do not include remote access

server software or remote control system software".

In Figure 5 (top right-hand side), "REMOTE DEVICE ATTEMPTS LOGIN TO CENTRAL

SERVER SYSTEM" is taught, which contradicts the assertion that no remote access

software is in the remote device.

Also, page 22, lines 10 – 12 teaches "More specifically, and referring now especially to

Figure 5, a **user having a remote device will attempt to login** to central server

system 12 and central server system 12 will establish (if possible) a SSL connection."

This also contradicts the assertion that no remote access software is in the remote

device.

Claim Rejections - 35 USC § 101

3.　　　35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 – 11 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility.

Independent claim 1 teaches "remote devices (that) do not include remote access server software or remote control system software".

The argument above shows that this feature is not supported in the specification.

Claim Rejections - 35 USC § 102

4.　　　The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.　　　Claims 1 – 9 and 12 – 18 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Bastian (U.S. Pat. No. 6,757,712) (Communications Systems for Aircraft).

5.1   Regarding claim 1, <u>Bastian</u> discloses a method for remotely accessing a base
computer from internet-enabled remote devices wherein the remote devices do not
include remote access server software or remote control system software, comprising in
combination:

establishing a remote access session with one of the remote devices at an
internet central server system (Abstract; Fig. 1);

presenting a task list (Abstract; Fig. 1) to the remote device from said central
server system (Abstract; Figs. 1, 3; col. 3, lines 4 – 23; col. 8, lines 10 – 41);

receiving a task selection at said central server system from the remote device
(Abstract; Figs. 1, 3; col. 8, lines 10 – 41);

establishing a persistent connection between said central server system and a
base computer in response to intermittent contact from said base computer to said
central server system (Abstract; Figs. 1, 3; col. 3, lines 4 – 23; col. 7, lines 51 – 67 "The
server determines the appropriate time to initiate a data exchange with station 90. This
can be when sufficient data is awaiting transmission from server 20, … **or when station
90 signals to server 20 via communications service provider network 80 and radio
60**." (see below);

transmitting said task from said central server system to the base computer via
said connection between said central server system and said base computer (Abstract;
Figs. 1, 3; col. 7, lines 51 – 67; col. 8, lines 10 – 41);

receiving at said central server system task data from the base computer

responsive to said transmitted task (Abstract; Figs. 1, 3; col. 7, lines 51 – 67; col. 3,

lines 4 – 23; col. 8, lines 10 - 41); and

presenting from said central server system a task response compiled from said

task data to the remote device (Abstract; Figs. 1, 3; col. 3, lines 4 – 23; col. 8, lines 10 –

41).

Col. 7, lines 51 – 67 of Bastian

Thus electronic mail sent from terminal 40a on board the aircraft is
first forwarded to server 20 where it is stored. The server determines
the appropriate time to initiate a data exchange with station 90. This
can be when sufficient data is awaiting transmission from server 20, or
when the time since the last exchange exceeds a time limit (15
minutes), **or when station 90 signals to server 20 via communications
service provider network 80 and radio 60**. Any e-mail messages stored on
server 20 since the previous connection was made are then transmitted
to station 90. Station 90 forwards the or each e-mail message on to
their eventual destinations Mail servers 195.

In one embodiment, **station 90 signals server 20 with a trigger signal
which indicates that data in the form of e-mail messages is stored by
the station and awaits retrieval**. The server then signals the base
station to retrieve this data, which is then transmitted to the server.

Col. 3, lines 4 – 23 of Bastian

Preferably, the base station stores electronic data to be transmitted
from the base station to the server, and the server stores electronic
data to be transmitted from the server to the base station, **the server
and base station communicating with each other intermittently**.

In a preferred form, **the server includes a database of information, the
database being updated periodically by transmission of electronic data
from the base station to the server**. More preferably, the server allows

the terminals to access the database. Even more preferably, the
terminals access the database with a web browser.

Preferably also, the server communicates with that base station which
is nearest to the aircraft. More preferably, the server determines
which of the base stations is nearest by determining the current
location of the aircraft. More preferably, the server communicates with
one only of the base stations. Alternatively, the server communicates
with selectively with more than one of the base stations, the selection
being made on the basis of the available remaining capacity of the
respective base stations.

Col. 8, lines 10 – 41 of Bastian

The general procedure for obtaining e-mail messages from the Internet
service providers or corporate accounts of the various passengers is
similar to the procedure for sending e-mail messages from the various
terminals 40a, 40b, 40c on the aircraft. Once a passenger connects a PC
to aircraft network 50 and then connects to server 20, the passenger
initiates e-mail retrieval. Server 20 accepts the request for e-mail
and collects the passenger Mail server address, user id and password.
If necessary, a corporate subscriber can activate previously setup
firewall services, and provide additional username and password
information. This information is passed to base station 90 via radio 60
and communications service provider networks 80. **Base station 90
contacts ISPs/corporate servers 110a,b,c and collects any e-mail for
the passengers using their user IDs and passwords.** Base station 90
continues to collect e-mail from ISPs/corporate servers 110a,b,c for
the duration of the flight that the passengers are on. When a
connection is established between server 20 on board the aircraft and
station 90, that stored e-mail message or messages are transmitted from
station 90 to server 20. This procedure is usually simultaneous with
the transmission of e-mail messages in the other direction from server
20 to station 90.

Once e-mail messages have been received at server 20, they are
retrieved by the respective passenger's computer terminals, 40a and 40b
via the aircraft network 50 when the passenger subsequently connects to
server 20 and retrieves mail.

The system includes a single base station. However, in other
embodiments, such as that illustrated in FIG. 5, the system includes a
number of base stations located at spaced apart locations on the
surface of the planet.

5.2   Per claim 2, Bastian teaches the method of claim 1 further comprising

terminating said remote access session by said central server system (col. 5, lines 44 –

51 "after exchange has been completed, the connection is **terminated**.").

5.3   Regarding claim 3, Bastian discloses the method of claim 2 further comprising

communicating said task response via a protocol compatible with the remote device

(col. 5, lines 18 – 23; col. 12, lines 1 – 8).

5.4   Per claim 4, Bastian teaches the method of claim 3 wherein said protocol is

TCP/IP for remote devices configured as computers (col. 9, lines 13 – 31 "**TCP/IP**

traffic"; col. 19, lines 21 – 28; col. 5, lines 18 – 23; col. 12, lines 1 – 8).

5.5   Regarding claim 5, Bastian discloses the method of claim 3 wherein said protocol

is WAP for remote devices configured as wireless communication devices (Abstract

"The computer terminals are **laptop or palm-top** personal computers belonging to the

various passengers on board …"; col. 5, lines 18 – 23; col. 12, lines 1 – 8).

5.6   Per claim 6, Bastian teaches the method of claim 1 further comprising

authenticating the user of the remote device while establishing the remote access

session (col. 2, lines 54 – 61; col. 14, lines 19 – 30).

5.7   Regarding claim 7, Bastian discloses the method of claim 6 further comprising

providing a secure communication means while establishing the remote access session

and continuing said secure communication between said central server system and the

remote device until said session is terminated (col. 14, lines 19 – 30).

5.8   Per claim 8, Bastian teaches the method of claim 7 further comprising encrypting

the communications between said central server and the base computer (col. 14, lines

19 – 30).

5.9   Regarding claim 9, Bastian discloses the method of claim 8 further comprising

establishing a communication link between the base computer and the central server

system when the base computer is not already connected to the internet (Abstract; Figs.

1, 3; col. 3, lines 4 – 23; col. 8, lines 1 – 3).

5.10   Regarding claims 12 – 18, the rejection of claims 1 – 9 under 35 USC 102(e)

(paragraphs 5.1 – 5.9 above) applies fully.

        (10) Response to Argument

Rejection of Claims 1 – 11 under 35 USC 112, first paragraph

Applicants "describe 'remote access server (RAS) software' and 'remote control server (RCS) software'" as being detailed at pages 1 – 4 of the Background section.

In addition, Applicants disclose "(i)t is a stated feature of the present invention to allow communications between remote and base computers without using RAS or RCS systems."

Examiner disagrees.

Applicants offer no specific passages in the specification that detail the disputed passage in claim 1, namely that the "remote devices do not include remote access server software or remote control system software."

The citation given (in the Background of the Invention section, pages 1 – 4) fails to clarify the contradiction that exists between the language in Claim 1 and the specification.

Rejection of Claims 1 – 11 under 35 USC 101

Applicants reference the 35 USC 112, first paragraph arguments.

Applicants provide no additional substantive arguments.

Rejection of Claims 1 – 9 and 12 – 18 under 35 USC 102(e)

Claims 1 – 9 (independent claim 1)

Applicants state that "(n)owhere does Bastian disclose or suggest that communications between a base computer and a central server system are established in response to contact, intermittent or otherwise, from the base computer to the central server system." Examiner disagrees.

Bastian clearly discloses establishing a persistent connection between said central server system and a base computer in response to intermittent contact from said base computer to said central server system (Abstract; Figs. 1, 3; col. 3, lines 4 – 23; col. 7, lines 51 – 67 "The server determines the appropriate time to initiate a data exchange with station 90. This can be when sufficient data is awaiting transmission from server 20, … **or when station 90 signals to server 20 via communications service provider network 80 and radio 60**." (see below)).

Col. 7, lines 51 – 67 of Bastian

Thus electronic mail sent from terminal 40a on board the aircraft is first forwarded to server 20 where it is stored. The server determines the appropriate time to initiate a data exchange with station 90. This can be when sufficient data is awaiting transmission from server 20, or when the time since the last exchange exceeds a time limit (15 minutes), **or when station 90 signals to server 20 via communications service provider network 80 and radio 60**. Any e-mail messages stored on server 20 since the previous connection was made are then transmitted to station 90. Station 90 forwards the or each e-mail message on to their eventual destinations Mail servers 195.

In one embodiment, **station 90 signals server 20 with a trigger signal which indicates that data in the form of e-mail messages is stored by the station and awaits retrieval**. The server then signals the base station to retrieve this data, which is then transmitted to the server.

Claims 12 – 15 (independent claim 12)

Applicants state that "Bastian does not disclose a base computing device establishing a connection with a server.

Examiner disagrees.

Bastian clearly discloses a base computing device establishing a connection with a server (Abstract; Figs. 1, 3; col. 3, lines 4 – 23; col. 7, lines 51 – 67 "The server determines the appropriate time to initiate a data exchange with station 90. This can be when sufficient data is awaiting transmission from server 20, … **or when station 90 signals to server 20 via communications service provider network 80 and radio 60**." (see above).

Claims 16 – 18 (independent claim 16)

Applicants state that "Bastian has no disclosure, teaching or suggestion of a base device logging into an intermediary server and establishing a connection with the intermediary server."

Examiner disagrees.

Bastian clearly discloses a base computing device establishing a connection with an intermediary server (Abstract; Figs. 1, 3; col. 3, lines 4 – 23; col. 7, lines 51 – 67 "The server determines the appropriate time to initiate a data exchange with station 90. This can be when sufficient data is awaiting transmission from server 20, … **or when station 90 signals to server 20 via communications service provider network 80 and radio 60**." (see above).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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